REMARKS

Claims 1, 3-6, and 8 will be pending and under examination after entry of the present amendment. Claims 9 to 19 stand withdrawn. Claims 1, 3, and 6 have been amended to even more particularly describe the recited inventions. Claim 2 has been canceled in light of the amendment to claim 1. Claim 14 has been amended consistent with presently amended claim 1. The Applicants reserve the right to prosecute any of the canceled subject matter in continuing or divisional applications. No new matter has been added.

Claim for foreign priority under 35 U.S.C. § 119

The Applicants note that the Examiner has not acknowledged the Applicants' claim for foreign priority under 35 U.S.C. § 119. In the preliminary amendment filed with the application on November 16, 2005, the Applicants identified that the present application is the national stage of PCT/EP2004/050922, filed May 26, 2004, which claims priority from PCT/EP03/05789, filed May 30, 2003. Certified copies of these documents should have been forwarded by the International Bureau. The Applicants respectfully request that the claim for foreign priority be acknowledged.

Rejections under 35 U.S.C. § 112

The pending claims stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite because the term "radical" is used to define the Markush groups. The Office states that "one of ordinary skill in the art would not be reasonably apprised of the scope of the invention" because "radical" is not defined in the claim. The Applicants disagree and request withdrawal of the rejection.

One of skill in the art would readily be able to ascertain the scope of the pending claims. Indeed, Examiner Rita Desai, who is also associated with the prosecution of the application, has allowed many cases wherein the term "radical" is used in the claims to similarly define Markush groups. *See, e.g.,* U.S. 7,314,935; U.S. 7,008,935; and U.S. 7,223,771. Moreover, patents issued to the present assignee have issued with claims including the term "radical." *See, e.g.,* U.S. 7,304,052.

The Office cites to the definition identified in the Oxford Dictionary of Chemistry: a radical is "an atom or group of atoms with an unpaired valence electron." The Applicants assert that one skilled in the art would readily be able to ascertain the scope of the invention in light of the ordinary meaning of the term "radical." The claims comply with 35 U.S.C. § 112, second paragraph; therefore, the Applicants respectfully request withdrawal of the rejection.

The pending claims also stand rejected under 35 U.S.C. § 112, first paragraph, as not enabling for compounds of Formula I, wherein X=N, and Y=(c-3), (c-4), (c-5), (c-6), or (c-7). While the Applicants maintain that one of skill in the art would be able to practice the full scope of the invention without undue experimentation, the claims have been amended in order to further the prosecution of the pending application. The Applicants reserve the right to prosecution the canceled subject matter in continuing or divisional applications. In light of the present amendments, the Applicants request reconsideration and withdrawal of the rejection.

Rejection under 35 U.S.C. § 102

Claims 1, 3, 5, and 8 stand rejected under 35 U.S.C. § 102(a) as allegedly anticipated by WO 02/085911 ("the 911 application"). In the presently amended claims, X is CR^6. Such compounds are not described in the 911 application; as such, the Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection under 35 U.S.C. § 103

Claims 1, 3, 5, and 8 stand rejected under 35 U.S.C. § 103(a) as allegedly obvious over the 911 application. The 911 application only describes compounds having a pyridinyl group. One skilled in the art would have had no motivation to modify those compounds to produce the optionally substituted phenyl (*i.e.*, $X=CR^6$) compounds of the present invention. Moreover, one of skill in the art would not have expected such a modification to result in the high seratonin ***and*** dopamine activities observed in the compounds of the present invention. *See, e.g.,* Specification page 34, lines 29-33 and Table 2, pages 35-36; 911 application page

12, lines 4-9. The Applicants assert that the presently amended claims are nonobvious over the cited art and respectfully request withdrawal of the rejection.

* * *

The Applicants believe that the foregoing constitutes a *bona fide* response to the pending Office Action and that the claims are in condition for allowance. An early Notice to that effect is earnestly solicited. Upon the determination of the allowability of the pending claims currently under examination, the Applicants request rejoinder, and an examination on the merits, of claims 9-19, as they contain all the limitations of examined claim 1. M.P.E.P. § 821.04.

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